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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,856	06/26/2003	Jerry M. Roane	067140.0104	5847

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EXAMINER

LE, MARK T

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/606,856

Applicant(s)

ROANE, JERRY M.

Examiner

Mark T. Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/9/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Applicant's election of Group II, claims 10-15, in the paper filed on February 10, 2004, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rail adjustment actuator, as recited in claim 10; the rails being aligned in different planes, as recited in instant claim 12; and the circular grid, as recited in instant claims 13, must be shown or the features must be canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 54-70505 in view of Li (US 5,797,330).

The Japanese reference discloses a rail system, similar to that recited in the instant claims, including a plurality of non-interconnected rails 5-8 (Figs. 1-2) supported by a plurality of supports with rail adjustment actuators (Figs. 5-6).

Regarding the rail being a triangular shell as recited in instant claim 10, consider rail 22 in the form of a triangular shell of Li. In view Li, it would have been obvious to one skilled in the art to form the rails of the Japanese reference in a configuration similar to that of Li so as to accommodate the vehicles similar to that of Li.

Regarding the rail being extruded, as recited in instant claim 10, note that hollow beams or structural members formed by extrusions are well known (Official Notice is taken). Accordingly, it would have been obvious to one skilled in the art to form the hollow rail structural members of the Japanese reference, as modified, by the well known method of extrusions so as to achieve expected advantages thereof, such as in terms of greater efficiency, and enhanced cross-sectional uniformity and consistency.

As to the instant claimed intended use, recited in instant claim 10, note that the rail configuration of the Japanese reference, as modified, is inherently capable of the instant claimed intended use with rail and roadway vehicles that have compatible features for operation on said rail configuration.

Regarding the rails being in different planes, recited in instant claim 12, consider Figs. 1 and 2 of the Japanese reference; wherein, the rails are at least in different vertical planes.

Regarding the instant claimed entry and exit points of each rail, as recited in instant claims 14-15, note that each rails 5-8 of the Japanese reference includes entry

and exit points, which are inherently capable being placed in the intended uses as broadly recited in the last two lines of claim 14, and in the last five lines of claim 15.

5. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 10 above, and further in view of Renaux (US 4,018,410).

Regarding the interconnected rails being disposed along a perpendicular or circular grid, as recited in claim 11 or 13, it is noted that the Japanese reference does not disclose a complete track layout. On the other hand, Renaux discloses various track layouts; wherein, Figure 1 shows perpendicular grids, and Figure 2 shows perpendicular and circular grids. In view of Renaux, it would have been obvious to one skilled in the art to provide track layouts, similar to that of Renaux, for operating with the track switch arrangement of the Japanese reference so as to achieve expected advantages of Renaux's track layout, such greater flexibilities in serving a highly populated area.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should further consider the structures of McKee, Park, and Trent.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
3/19/04